

Suit - Maintainability of - Issue may be decided at the first instance - Appellant/defendant has mentioned about the earlier two cases which were filed by respondent / plaintiff and wherein he failed - These are judicial records - The appellant can easily demonstrate the correctness of his averments by filing certified copies of the pleadings in the earlier two suits as well as copies of the judgments passed by the courts in those proceedings - In a case like this, though recourse to Order VII Rule 11 CPC by the appellant was not appropriate, at the same time, the trial court may, after framing the issues, take up the issues which pertain to the maintainability of the suit and decide the same in the first instance - In this manner the appellant, or for that matter the parties, can be absolved of unnecessary agony of prolonged proceedings, in case the appellant is ultimately found to be correct in his submissions.

[\(2018\)2 SCeJ 1240 = 2018 PLRonline 14192](#)